

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Corbett Analyst: Jane Tolman Bill Number: AB 2886  
Related Bills: See Legislative History Telephone: 845-6111 Amended Date: 04-01-2004  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Drug Abuse Resistance Education (D.A.R.E.) Fund

### SUMMARY

This bill would allow taxpayers to make a voluntary contribution to the Drug Abuse Resistance Education Fund (D.A.R.E.) through a checkoff on their personal income tax return.

### SUMMARY OF AMENDMENTS

The April 1, 2004, amendments removed the D.A.R.E program as the entity that moneys would be allocated to by the Legislature. In its place, it provided that the moneys would be allocated to the appropriate state department as designated by the California Highway Patrol.

This is the department's first analysis of the bill.

### PURPOSE OF THE BILL

It appears that the purpose of this bill would be to provide funding to the D.A.R.E. program for drug abuse resistance education in California schools.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2005, and would apply to returns filed for taxable years beginning with the first taxable year another voluntary contribution designation is removed from the tax return and a voluntary contribution designation for this fund is added. The designation for this fund would remain on the tax return for a total of five years.

### POSITION

Pending.

### ANALYSIS

#### FEDERAL/STATE LAW

Current federal tax law provides a true checkoff to direct \$3 of a taxpayer's tax liability to the presidential election fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

#### Board Position:

|          |           |                      |
|----------|-----------|----------------------|
| _____ S  | _____ NA  | _____ NP             |
| _____ SA | _____ O   | _____ NAR            |
| _____ N  | _____ OUA | <u>  X  </u> PENDING |

#### Department Director

#### Date

Gerald H. Goldberg

4/7/04

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to the 11 voluntary contribution funds listed on the state tax return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund.

Except for the California Seniors Special Fund, which has no sunset date, the voluntary contribution funds have various sunset dates. The attachment shows the specific sunset dates for each voluntary contribution fund and indicates those funds that must meet a minimum contribution test to remain on the return. The initial minimum contribution amount is \$250,000, which is indexed annually for each fund.

### THIS BILL

This bill would establish the D.A.R.E. Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their tax returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

This bill would require FTB to revise the personal income tax return to include a designation space for the D.A.R.E. fund beginning with the first taxable year another voluntary contribution fund is removed.

Beginning with the second taxable year the D.A.R.E. fund is on the return, this bill would require the fund to meet the \$250,000 minimum contribution test. FTB would be required to estimate by September 1 of any calendar year after the first taxable year the fund appears on the tax return that contributions made under this bill will be less than \$250,000 (as indexed for inflation). The law authorizing designations for this fund would be repealed if contributions made under this bill will be less than the minimum contribution amount.

This bill would allow the voluntary contribution designation to remain on the tax return for five years unless a later enacted statute deletes or extends that date.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return would be treated as if no designation has been made. If no designee is specified, a designated contribution amount would be transferred to the General Fund. In addition, if an individual designates a contribution to more than one fund and has insufficient funds to satisfy those designations, the amount allocated will be pro rated.

Upon appropriation by the Legislature, the money from this fund would be allocated to: 1) FTB and the Controller for reimbursement of costs incurred in administering this fund and 2) to the appropriate state department, as designated by the California Highway Patrol. The moneys would be exclusively used to fund the D.A.R.E. program.

### IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

## LEGISLATIVE HISTORY

AB 1733 (Machado, Ch. 654, Stats. 1998) extended the sunset date for the D.A.R.E. Fund to January 1, 2004.

SB 1153 (O'Connell, Ch. 486, Stats. 1995) allowed the taxpayers to make a voluntary contribution to the D.A.R.E. Fund through checkoff on their personal income tax returns.

## PROGRAM BACKGROUND

The D.A.R.E. Fund was first enacted in 1995 and was available for contributions on the 1995 tax return filed in 1996. It would have sunset on January 1, 1999, and last appear on returns for the 1998 taxable year filed in 1999.

The sunset date for the D.A.R.E. Fund was extended to January 1, 2004. However, the fund did not meet the \$250,000 minimum contribution requirement and last appeared on the return in 1999.

Eleven voluntary contribution funds appeared on the 2003 California personal income tax returns. Total contributions to these funds have varied from approximately \$3.4 million in 1989/1990 to approximately \$3.8 million in 2001/2002. The number of individuals contributing (first tabulated in 1993) remains fairly constant at approximately 140,000, or slightly less than 1% of all taxpayers.

## OTHER STATES' INFORMATION

*Illinois, Massachusetts, Michigan, Minnesota, and New York* allow for taxpayer contribution designations on the personal income tax returns.

*Florida* does not have a personal income tax but allows contribution designations on the state's motor vehicle registration and renewal forms.

None of these states provide a voluntary contribution comparable to the one proposed by this bill.

## FISCAL IMPACT

This bill would not significantly impact the department's cost.

## ECONOMIC IMPACT

### Revenue Estimate

Assuming that the minimum level of contributions (\$250,000) is achieved each year this fund is on the return, that the fund is placed on the 2004 return filed in 2005, and that an itemized deduction is allowed and claimed for each contribution, potential revenue losses would be very minor. The revenue loss would be on the order of \$15,000 annually beginning with the taxable year the itemized deduction is claimed on the tax return (2005/2006 FY). The loss would be attributable to itemized deductions claimed for the contributions in the taxable year following the contributions.

| Revenue Impact * (\$) |           |           |           |
|-----------------------|-----------|-----------|-----------|
| Fiscal Year           | 2004/2005 | 2005/2006 | 2006/2007 |
| Revenue Loss          | \$0       | -\$15,000 | -\$15,000 |

\*This estimate has been rounded.

Any possible changes in employment, personal income, or gross state product that might result from this measure are not taken into account.

### Revenue Discussion

According to departmental data, the total amount of existing voluntary contributions to all funds was nearly \$4 million for fiscal year 2002/2003 with an average of \$280,000 per individual designated fund.

Assuming contributions equal or exceed the minimum contribution threshold and all contributors itemize deductions, the annual revenue loss would be on the order of \$15,000 by applying an average marginal tax rate of 6% ( $\$250,000 \times 6\% = \$15,000$ ).

### **ARGUMENTS/POLICY CONCERNS**

The placement of voluntary contributions on the tax return limits the amount of space available for tax-related items. The inclusion of non-tax related information could ultimately cause the tax form to become three pages, which is unprecedented among other states and the Internal Revenue Service. A three-page return also would cause the department to incur significant costs for printing, handling, and storage.

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